

REMARKS

Claims 9-11 are pending in this application. Claims 9-11 have been amended. Claims 1-8 and 12-42 have been withdrawn from consideration. The Applicants reserve the right to file divisional applications on unelected claims. Support for the amendments may found in paragraphs [0017], [0028], [0029], and [0126]-[0132], of the printed U.S. publication, US 2007/0184534, for example.

The title has been amended. No new matter has been added by any of the amendments.

Amendments to the Specification

The specification has been amended to include a revised title. No new matter has been added.

Statement under Rule 821(F)

The undersigned counsel certifies that the content of the paper copy and CRF of the Sequence Listing contains the same information and that no new matter has been added. Entry of the Sequence Listing is respectfully solicited.

Rejection under Section 112

The Office Action rejects claims 9-11 for non-statutory subject matter, and §112, first paragraph, for failing to describe the invention and for enablement.

The Applicants amend claim 9 to recite, "An isolated polypeptide having L-sorbose dehydrogenase activity comprising: (i) SEQ ID NO: 2; or (ii) an amino acid sequence derivable from SEQ ID NO: 2 by addition, deletion, insertion or a conservative substitution of one or more amino acids in the amino acid sequence of SEQ ID NO:2, wherein the conservative substitution is selected from the following substitution: Ala to Val/Leu/Ile, Arg to Lys/Gln/Asn, Asn to Gln/His/Lys/Arg, Asp to Glu, Cys to Ser, Gln to Asn, Glu to Asp, Gly to Pro/Ala, His to Asn/Gln/Lys/Arg, Ile to Leu/Val/Met/Ala/Phe/nor Leu, Lys to Arg/Gln/Asn, Met to Leu/Phe/Ile, Phe to Leu/Val/Ile/Ala/Tyr, Pro to Ala, Ser to Thr, Thr to Ser, Trp to Tyr/Phe, Tyr to Trp/Phe/Thr/Ser, and Val to Ile/Leu/Met/Phe/Ala/nor Leu."

This amendment is supported by paragraphs in the specification, as recited above.

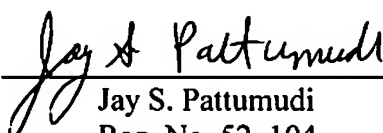
Functional derivatives of the disclosed polypeptides may be made by methods known in the art and thus, the claims are adequately described and enabled. Conservative substitutions do not affect enzyme activity. Indeed, the Wells reference, referenced by the Office Action, states that common mutations are “unlikely to alter grossly the structure or mode of binding.” See pg. 8515, end of third paragraph on the right side. Thus, the Applicants respectfully request consideration of the amended claims.

CONCLUSION

Applicant respectfully submits that the claims are now in condition for allowance and notification to that effect is earnestly requested. The Applicants request an one month extension of time and request the Commissioner to charge deposit account No. 50-4255. It is believed that no other additional fees are required. The Commissioner is also authorized to charge any additional fees, if needed, or credit any overpayment, to deposit account No. 50-4255.

Respectfully submitted,

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